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ABSTRACT

The study examined how nine State Departments of Education allocate and manage their P.L. 94-142 (the Education for All Handicapped Children Act) funds. The introduction explains that a single question lies at the core of the study--Should additional or revised procedures concerning the use of program funds be instituted to help states better meet the intent of P.L. 94-142? Section II describes how the nine states allocate their P.L. 94-142 funds and how compatible the program is perceived to be with the states' regular and special education finance formulas. Section III discusses how these nine states manage their P.L. 94-142 programs; and a final section reviews study findings and draws policy implications. Among findings were the following: the nine states sampled allocated their funds consistent with the P.L. 94-142 formula; the most common use of discretionary funds was for grants and contracts to local education agencies and intermediate education agencies; funds were most frequently targeted for vocational special education; the method of allocating discretionary funds varied from state to state; state management of P.L. 94-142 varied and depended on established state procedures and staff; and states, in general, were holding districts accountable for what they, in turn, were being held accountable for by the Office of Special Education. Among implications listed are that states appear to be using discretionary funds to meet state needs and that most states appear to have procedurally complied with P.L. 94-142. (SB)

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PREFACE

This Note, which examines the implementation of the Education for All Handicapped Children Act, P.L. 94-142, is one of the studies conducted through The Rand Corporation's Education Policy Development Center. The Center is sponsored by the Office of the Assistant Secretary for Planning and Budget, and in response to requests from the U.S. Department of Education conducts research on the education of disadvantaged children, including handicapped children.

The author is indebted to the special education and finance staffs of the State Departments of Education participating in this study--California, Michigan, Minnesota, Montana, New Jersey, Rhode Island, South Carolina, South Dakota, Texas--and the staff of the Division of Assistance to States, Office of Special Education, Washington, D.C. Without their cooperation, this study would not have been possible. The author would also like to thank Paul Hill, James Kakalik, and Rich Shavelson of Rand, who made important comments and suggestions throughout this study.

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SUMMARY

This study deals with the implementation of the Education for All Handicapped Children Act, P.L. 94-142. In particular, it examines how State Departments of Education allocate and manage their P.L. 94-142 funds. A single question lies at the core of this study: Should additional or revised procedures concerning the use of program funds be instituted to help states better meet the intent of P.L. 94-142? These procedures might include modifying the existing legislation, program regulations, or practices followed in implementing P.L. 94-142.

To address this question, we first needed to answer the following two research questions:

1. How are states allocating their P.L. 94-142 funds? Also, how compatible are the federal requirements for allocating these funds with state regular and special education finance formulas?
2. How are states managing the P.L. 94-142 program? In particular, how are they managing the program internally, and how are they influencing and monitoring the program in local districts?

Nine states were selected for study by means of a stratified probabilistic sample. Interviews in these nine states and Washington, D.C., provided the main source of information for this study. All the interviews were conducted by the author between January and June 1980. In addition to personal interviews, written reports, memoranda, budgets, and other documents determined relevant to the study were reviewed.

Public Law 94-142 represents a departure from the federal law it supersedes--Title VI of the Education of the Handicapped Act. Under Title VI the states retained more program control. The federal role was that of a catalyst--hoping to promote increased educational services for the handicapped through the use of relatively unrestricted seed money. Under P.L. 94-142 the federal government has become more active in decisions concerning the use of special education funds. This change in

posture is reflected in P.L. 94-142's distribution formula, which dictates, in part, how states are to use these funds.

Public Law 94-142's within-state distribution formula specifies that at least three-quarters of the funds reach the local level; it allows states to retain discretion over the remaining portion of funds and to use up to 5 percent or $200,000, whichever is greater, for administration of the program (this amount has since been increased to $300,000); and it sets some federal direction, or priorities, for the expenditure of these funds. Furthermore, P.L. 94-142 explicitly requires states to match some of the federal funds on a program basis.

We found that the nine states in our sample allocated their funds consistent with the P.L. 94-142 formula--at least 75 percent flowed through to the local education agencies (LEAs) on an equal dollars per child basis, no more than 5 percent or $200,000 was earmarked for state administration of the program, and the remainder was used at state discretion to provide direct or support services to handicapped children. These direct and support services varied greatly, however. On average, the most common use of discretionary funds among these nine states was for grants and contracts to LEAs and intermediate education agencies (IEAs). These funds were targeted most frequently for vocational special education; second, preschool special education; and third, personnel development programs.

The second most common use of discretionary funds among these nine states was for grants and contracts to decentralized state administrative units, or what we have termed regional centers. These grants were used generally to pay administrative costs, or to provide child find, staff development, technical assistance, and parent information activities undertaken by the centers.

The third most common use of discretionary funds in these states was to provide direct services to handicapped youth. These services included paying for special school tuitions, special transportation, special education programs in state-operated institutions, and other statewide projects.

The fourth and fifth most common uses of discretionary funds among these nine states were for a comprehensive system of personnel

development for general and special education teachers and support personnel, and for research and development projects covering a wide range of subjects.

The method for allocating these discretionary funds varied from state to state. Some states held open competitions for funds, others selectively invited agencies to appy under sole source contracts, and still others allocated funds by set formula. In summary, there was a great deal of variance in how states allocated the discretionary portion of their funds, and we conclude that they were spending these funds to meet unique state needs.

We also found the allocation of P.L. 94-142 funds to be affected significantly by the type of formula and funding level of the state's special education program. In states that paid for nearly all of the cost of special education, districts had little incentive to apply for P.L. 94-142 discretionary funds. In other states, discretionary funds were used to fill in financial or service gaps created by state and local funding formulas.

State management of P.L. 94-142 varied as well, and depended on established state procedures and staff. In all nine states, one administrative unit was responsible for administering both P.L. 94-142 and the state's own special education program. However, some states did not have their special education staff in place until the mid-1970s when the federal special education law was passed. Other states had their special education staff in place prior to P.L. 94-142's passage and needed only to augment, or reassign responsibilities among, existing staff. Staffing availability and prior special education experience affected how states managed their P.L. 94-142 program. We found some states to be more effective than others at securing approval for their state plans, reviewing local plans and disbursing funds, and monitoring districts for compliance with P.L. 94-142. In general, however, states were holding districts accountable for what they, in turn, were being held accountable for by the Office of Special Education (OSE).

In sum, we found that states allocated the funds consistent with the P.L. 94-142 formula but that their expenditure of the discretionary portion of these funds followed no consistent pattern across states.

Rather, state allocation of discretionary funds and management of the program depended to a large extent on each state's particular characteristics, such as pre-P.L. 94-142 special education experiences, standard operating procedures, population and other demographic characteristics, political climate, and fiscal solvency. State allocation and management of P.L. 94-142 funds were also influenced by statutory requirements and by OSE's established procedures.

The implications of these findings are that the actual P.L. 94-142 fund allocation procedures are working well but that several of the procedures designed to influence the allocation of funds could benefit from modification. Most important, we conclude that state characteristics need to be considered more in the implementation of P.L. 94-142, since they are important determinants of how states allocate and manage their P.L. 94-142 funds. In particular, the findings of this study and implications for federal management of the P.L. 94-142 program are as follows:

- The current P.L. 94-142 between- and within-state distribution formulas appear to be functioning adequately and, thus, could be retained. States are allocating their funds consistent with the within-state distribution formula, and the between-state formula does not appear to be causing major problems.
- The program's two priorities could be amended to reflect the program's three-year maturity: P.L. 94-142's first priority (i.e., the unserved) should be retained and implemented by requiring active state identification programs to find unserved children. However, the second priority (i.e., the underserved severely handicapped) could be amended by Congress to indicate that service should go to any handicapped child who is inadequately served. Additionally, OSE should work with states to establish state-specific priorities.
- States appear to be using their P.L. 94-142 discretionary funds to meet state needs. Since, as this study has shown, state characteristics have important effects on how states allocate and manage their P.L. 94-142 funds, this suggests that these characteristics should not be submerged under overly tight uniform standards.

- Most states appear to have procedurally complied with P.L. 94-142; therefore, future federal and state compliance efforts could be focused more on substantive issues than on formal procedures. In general, OSE could place more emphasis on monitoring and assisting states to substantively monitor the LEA activities.

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I. INTRODUCTION

BACKGROUND

Public Law 94-142, the Education for All Handicapped Children Act, was passed in 1975. Its purpose is to assure that all handicapped children are provided a free appropriate public education. As one mechanism for accomplishing this, federal monies are distributed to states, on the basis of the number of handicapped children between the ages of 3 and 21 being served in special education. These monies are not to be used to supplant local funds but are to provide additional dollars to educate children newly identified or children already being served. In FY 1980, $804 million was allocated to states by the Office of Special Education (OSE)* for the special education of handicapped children.

Public Law 94-142 charges the states with the primary responsibility for assuring that the provisions of the Act are carried out by local education agencies (LEAs) and other state agencies that conduct education programs as part of their service to handicapped children. Seventy-five percent of the P.L. 94-142 funds received by the states in FY 1979 and thereafter are to be distributed directly to the LEAs, on the basis of the number of handicapped children served. The remaining 25 percent can be used by states at their discretion: 5 percent or $200,000, whichever is greater, can be used for state administration of the program (this amount was subsequently raised to $300,000),† and the remainder (approximately 20 percent) is to provide support services,

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*Prior to the formation of the Department of Education, OSE was known as the Bureau of Education for the Handicapped (BEH), in the Office of Education, U.S. Department of Health, Education, and Welfare.

†On June 14, 1980, P.L. 96-270 was signed into law, raising the allowable minimum level for state administration of the program to $300,000. Data collected for this study and their analyses, however, are based on the prior minimum level of $200,000. Also, prior to FY 1979, 50 percent of the funds were to be distributed directly to LEAs, and 50 percent could be spent at the states' discretion, instead of the current 75-25 split. Source: Department of Health, Education, and Welfare, Office of Education, *Federal Register*, Vol. 42, No. 163, August 23, 1977, sections 121a. 370 and 121a. 620.

such as personnel development, and direct services to handicapped children. Accordingly, for the 1979-80 school year, the states received approximately $200 million to spend at their discretion in support of special education.

QUESTIONS FOR RESEARCH

A single question lies at the core of this study: Should additional or revised procedures concerning the use of program funds be instituted to help states better meet the intent of P.L. 94-142? These procedures might include modifying the existing legislation, program regulations, or practices followed in implementing P.L. 94-142.

To address this question, we first needed to answer the following two research questions:

1. How are states allocating their P.L. 94-142 funds--both the discretionary and nondiscretionary portions? Also, how compatible are the federal requirements for allocating these funds with state regular and special education finance formulas?
2. How are states managing their P.L. 94-142 program? In particular, how are they managing the program internally, and how are they influencing and monitoring the program in local districts?

As the following section will illustrate, this study was undertaken with a small sample of states and, thus, is unable to answer these questions definitely. It can, however, answer these questions for a sizable proportion of P.L. 94-142 funds. In total, the nine states in this study accounted for 30 percent of the P.L. 94-142 funds allocated to states in FY 1980. Thus, the study results can help OSE and State Departments of Education (SDEs) understand the issues and appreciate the effects of federal and state policy on the implementation of P.L. 94-142.

SAMPLING AND DATA COLLECTION

The study was limited to nine states for two reasons. First, nine was the maximum number of states we could sample, given the study's budget and time constraints. Second, nine was felt to be the minimum

number of states needed to represent the range of state types and funding levels of interest in this study.

A priori, we identified certain key state characteristics that we thought might affect how states allocated and managed their P.L. 94-142 funds. These characteristics were translated into five sampling dimensions: geographic region, number of special education students served, type of special education finance formula, type of general school finance formula, and state special education funds per handicapped child. Nine states were selected by means of a stratified random sample to be representative of the fifty states on these five dimensions.*

Interviews in these nine states and Washington, D.C. provided the main source of information for this study. The study's research questions were used to develop a list of topics for discussion with SDE and federal staff members responsible for managing the P.L. 94-142 program. All the interviews were conducted by the author between January and June 1980. An average of three person-days was spent in each state interviewing SDE special education and finance personnel. In all, 39 SDE staff members were interviewed. Additionally, for each state we reviewed the FY 1979 and FY 1980 Annual Program Plan for special education, the special education budget, the regular education summary budget, state regular and special education finance formulas, and other reports and forms determined relevant to this study.

Data were also collected in Washington, D.C., to determine federal objectives or intent for state P.L. 94-142 discretionary funds and to determine whether any federal guidelines existed for state monitoring beyond those listed in the regulations. We interviewed federal administrators from the Division of Assistance to States (DAS), OSE, and analyzed informal memoranda and policy letters to states, reports on

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*See the appendix for a breakdown of the number of states by sampling strata. The nine states were selected from among 14 states sampled for Rand's Cost of Special Education study being conducted for OSE. Since we could select nine nationally representative states from among this previously selected 14-state random sample, we saw no disadvantages to doing so. On the other hand, we saw two advantages for doing so: First, it allowed us to make use of information already collected on the special education programs in these states. Second, it enabled us to capitalize on an established relationship with each state agency.

program reviews of states, and Congressional subcommittee reports on P.L. 94-142. Findings resulting from these data collection efforts are reported in the sections that follow: Section II describes how the nine states allocate their P.L. 94-142 funds and how compatible the program is perceived to be with the states' regular and special education finance formulas; Sec. III discusses how these nine states manage their P.L. 94-142 programs; and in Sec. IV the study's findings are reviewed and policy implications are drawn.

II. STATE ALLOCATION OF P.L. 94-142 FUNDS

THE FORMULA

Public Law 94-142's within-state distribution formula requires that states distribute at least 75 percent of the funds received in FY 1979 and thereafter directly to the local education agencies and intermediate education agencies, on the basis of the number of handicapped children served. Of the remaining entitlement, 5 percent or $200,000, whichever is greater, can be used for state administration of the program and the rest (approximately $160 million) can be used at the state's discretion to provide support services and direct services to handicapped children. The state discretionary and LEA and IEA flow-through monies must be spent in accordance with the two priorities established in the law: first, to identify and serve handicapped children who are not receiving an education, and second, to appropriately serve the more severely handicapped children within each disability who are receiving an inadequate education.*

Public Law 94-142's within-state distribution formula differs in three ways from the distribution formula of the federal law it supersedes:

- First, P.L. 94-142's formula requires that a certain fraction of the monies flow through to LEAs and IEAs, on the basis of the number of handicapped children served.
- Second, P.L. 94-142 sets priorities for the expenditure of funds (i.e., the unserved and the more severely handicapped underserved).
- Third, P.L. 94-142 both explicitly and implicitly requires states and local agencies to match the federal funds.†

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*Education for All Handicapped Children Act of 1975, Section 2(a)(1)A, Section 612(3).

†State Departments of Education are *explicitly* required to match on a program basis with state funds the special education services provided with P.L. 94-142 discretionary funds. Although LEAs and IEAs are not explicitly required to match the federal funds, they appear to be

The predecessor to P.L. 94-142--Title VI of the Education of the Handicapped Act (P.L. 93-380; 88 Stat. 580)--provided grants to states on the basis of the number of children in a state between the ages of 3 and 21. The program was designed to stimulate state and local investment in special education through the funding of demonstration programs. States retained a great deal of discretion over how the monies were spent, and there was no requirement to match the grant with state or local funds. Thus, the federal role has changed toward special education as reflected by these distribution formulas.

Under the former Title VI, the states retained a great deal more program control. The federal role was that of stimulation--hoping to promote increased educational services for the handicapped through the use of relatively unrestricted seed money. Under the current law, the federal govenment has become more active in decisions concerning the use of special education funds. Thus, federal and state agency interactions with respect to special education have progressed from the federal government encouraging states to move in certain directions, to using states as administrative vehicles for accomplishing specific federal objectives.* Along with this more active posture, the federal government instituted more explicit controls over the funds. As mentioned above, these more explicit controls included establishing a formula that determined the proportion of funds to be passed along to LEAs and IEAs, and the proportion to be retained at the state level, and setting some federal direction, or priorities, for the expenditure of these funds. We examine how the formula works in practice in the sections that follow.†

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implicitly required to do so, since P.L. 94-142 mandates full service to all handicapped school-age children but in FY 1980 provided only 12 percent of the funds necessary to educate those children.

*Milstein identified a similar pattern in the historical relationship between federal aid programs and state education agencies (Michael M. Milstein, "Impact and Response: Federal Aid and State Education Agencies," *Teachers College Press*, Columbia University, New York, 1976).

†For the interested reader, a number of sources contain portions of the arguments advanced in support of the P.L. 94-142 distribution formula and program requirements. See, for example, Hearings Before the Subcommittee on the Handicapped of the Committee on Labor and Public

Local Agency Flow-Through Funds*

As mentioned above, in FY 1979 and thereafter, P.L. 94-142's within-state distribution formula requires that states distribute 75 percent of the funds received directly to LEAs and IEAs, on the basis of the number of handicapped children served. For FY 1980, the year data for this study were collected, approximately 600 million P.L. 94-142 dollars were required to flow through from the states to the LEAs/IEAs on an equal dollars per child basis. Based on this study's data, however, estimates are that a higher-than-mandated percentage of funds flowed through to the locals.

The nine states in our sample collectively distributed 78 percent of their P.L. 94-142 funds to local agencies by formula. Five of the nine states chose to flow through only the required 75 percent. These five included both large and small states; densely and sparsely populated states; and some states with special education service mandates prior to P.L. 94-142 and some without.† There were no particular characteristics distinguishing this group of states from the others,

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Welfare, United States Senate, 93rd Congress, 1st Session on S.6, Part 3, October 19, 1973, March 18, 1974; Hearings Before the Subcommittee on the Handicapped of the Committee on Labor and Public Welfare, United States Senate, 94th Congress, 1st Session on S.6, April 8, 9, and 15, 1975; *Legislative History*, "Education for All Handicapped Children Act of 1975," Vol. 6, Nos. 1-12, November 29, 1975; and Report to the Congress, *Federal Programs for Education of the Handicapped: Issues and Problems*, by the Comptroller General of the United States, Department of Health, Education, and Welfare, December 5, 1974.

*In this section we discuss only entitlement funds distributed to the LEAs/IEAs on an equal dollars per child basis. By entitlement we mean those dollars that are passed on to the locals as part of the 75 percent, pass-through provision in the formula. States can choose to pass along additional monies from their discretionary funds to locals on an equal dollars per child basis. These monies are typically designated for a specific purpose, however, and are discussed in a later section of this Note.

†In our sample, three states had laws that mandated special education prior to the 1974-75 school year, during which P.L. 94-142 was debated and approved; three states appeared to develop or significantly strengthen state laws in the mid-1970s in response to the same forces that eventually led to the creation of P.L. 94-142; and the remaining three states developed or strengthened state programs and laws concurrent with P.L. 94-142.

other than their decision to flow through only the 75 percent required by law.

The remaining four states in our sample chose to flow through more than the required 75 percent, with amounts ranging from 79 to 94 percent of P.L. 94-142 funds received. Again, no particular characteristics distinguish this group of states. However, all four states determined the amount of funds to flow through in a similar fashion:

Flow through = grant award
- (Amount needed or allowed for administration)
- (Amount needed for state-identified projects).

Thus, the study sample showed that states appear to view their P.L. 94-142 funds in one of two ways: either as funds to which the local agencies are entitled, once the cost of state administration and state-identified projects are subtracted, or as funds to which the state is entitled, once the required 75 percent of monies is passed through.

State Discretionary Funds

Public Law 94-142's within-state distribution formula entitled the states to use 25 percent of their grant award at their own discretion.* Five percent or $200,000, whichever is greater, can be used for state administration of the program. (A bill was signed subsequently making $300,000 the lower limit for P.L. 94-142 state administrative funds.) The remainder is to be used to provide support services and direct services to handicapped children.

State Administration Funds. In three of nine states in our sample, the grant awards were sufficiently small that the allotted $200,000 was greater than 5 percent of their P.L. 94-142 monies. (These states now would be entitled to use $300,000 for administration.) All three states have small populations, although two are sparsely populated and one is

*In FY 1980 this amounted to approximately $200 million for the entire program.

densely populated. The state that is densely populated serves a slightly below-average portion of its students in special education (7.6 percent as compared with a sample average of 7.9 percent),* with the state contributing more than three-quarters of the cost. However, the state contributes less than one-third of the cost for the state administration of special education. The two sparsely populated states serve an even smaller portion of their students in special education (6.0 and 6.9 percent). In one of these the state pays for almost all of the cost of special education, whereas in the other the state pays for less than a quarter of the cost. In both, less than 50 percent of the cost of state administration is picked up by the state. In all three the ratio of special education students to special education staff is smaller than in any of the remaining six states.†

The remaining six states in our sample were eligible to use 5 percent of their grant award for state administration of the program. Four of the six did so. Two of these six states, however, used less than their allotted 5 percent (3.8 and 3.2 percent). Of these two, one had developed its special education program prior to P.L. 94-142 and one concurrently. Both states are serving a below-average portion of their students in special education (6.7 and 7.5 percent), although both are considered progressive‡ and are, by reputation, committed to special education. We do not feel, however, that one should make too much of these numbers. As we shall see in the section below, states are allocating the discretionary portion of their P.L. 94-142 funds to a wide variety of activities. Some of the activities funded with discretionary monies in one state are funded through the administrative monies

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*The national average for the 1979-80 school year is 7.8 percent, using the December 1, 1979, child count figures reported to OSE.

†The ratios of special education students to staff ranged from a low of 960:1 to a high at 4,300:1. The three smallest ratios corresponded to the three states with the smallest student enrollments. However, the three largest ratios depended both on state size and limits on staff hiring.

‡Based on Zeigler and Johnson's Index of Progressive Liberalism, in Harmon Zeigler and Karl Johnson, *The Politics of Education in the States*, Bobbs-Merrill, Indianapolis, 1972, p. 47.

of another state. Thus, there appears to be great latitude over what is considered administrative versus what is considered direct or support services, as we discuss below.

State Support and Direct Service Funds. In the table below we show how the nine states in our sample on average allocated their discretionary funds. About one-third of the funds continues to pass through to the LEAs/IEAs. Unlike the 75 percent flow-through monies, however, the discretionary funds disbursed by the states are targeted. That is, to qualify for the funds an LEA must demonstrate that a program either already exists or is being developed in a specified area. As can be seen from Table 1, the areas for which funds were most frequently targeted are, first, vocational special education; second, preschool special education; and third, personnel development programs.

The states used various methods for distributing these funds. In some states, funds were automatically disbursed on an equal dollars per child basis to LEAs that both operated a program in a target area and applied for funds. In these cases the state used its discretionary funds similarly to its 75 percent flow-through funds, with the additional requirement that the LEA operate a program in the targeted area(s). Over half of the discretionary funds disbursed directly to LEAs are disbursed in this manner.

A second method of distributing these funds was through competitive bidding or sole source contracts. Using this method, a state might selectively invite several local agencies to write a proposal for the development of a cooperative or regional program. Or a state might issue an open RFP (Request for Proposal) to design a program for low-incidence handicaps.

Finally, one state chose to distribute a portion of its discretionary funds to districts with higher excess costs for special education. In this case the state was essentially supplementing its 75 percent flow-through monies so that P.L. 94-142's entitlement funds could be distributed on an added cost basis.

All but one of the states chose to use a portion of their discretionary funds to enter into grants or contracts as a means of providing

Table 1

NINE-STATE AVERAGE ALLOCATION OF DISCRETIONARY P.L. 94-142 FUNDS DURING FY 1980

How Allocated	Amount of Funds Allocated (%)	
Grants/contracts to LEAs/IEAs:		
Vocational education programs	8.5	
Preschool programs	8.4	
Personnel development	5.9	
Equalization	4.6	
Severely handicapped	4.0	
Cooperative	0.4	
Child find efforts	0.1	
Low-incidence handicaps	0.1	
Total to LEAs/IEAs[a]		32.0
Grants/contracts to regional centers		21.7
State use:		
Special education tuition	6.9	
Statewide projects (e.g., media centers, management information system, deaf curriculum)	4.6	
Child find activities	4.4	
Grants/contracts to other state agencies and state-operated programs	2.3	
Transportation of the handicapped	1.2	
Miscellaneous (e.g., technical assistance, hearing officers)	0.6	
Total state use		20.0
Personnel development system		17.9
Research and development projects		8.3
Total percent		99.9
Total discretionary dollars		$43,916,751

[a]This figure does not include all of the monies disbursed to an LEA/IEA. A portion of the research and development projects also go to LEAs/IEAs but could not be broken out separately. Additionally, LEAs/IEAs receive the 75 percent entitlement funds discussed above.

direct and support services to handicapped children.* As a result, nearly 85 percent of the P.L. 94-142 funds from these states was distributed to LEAs, either by means of direct entitlement or by means of the more focused grants described above.

Grants to "Regional Centers" (RCs)† comprise the second most common use of discretionary funds, as shown in Table 1. However, unlike grants to LEAs, grants to RCs are used exclusively by mid- to large-sized states, where population sizes and geographic distances warrant the use of regional education agencies. The larger state agencies might use discretionary funds to pay all or part of the salaries of the regional special education directors and regional administrative costs, as well as to fund the RCs to conduct child find, staff development, and parent information activities, and to provide technical assistance to the LEAs encompassed in the Center's region. Thus, by entering into contracts to provide direct and support services to handicapped youth with regional agencies, some SDEs are able to indirectly provide services that other SDEs provide directly through their P.L. 94-142 administrative funds.

State retention of funds to provide direct services to handicapped youth was the third most common use of discretionary funds. Included in these services are the state's share of tuition for handicapped students placed in out-of-district schools, grants to other state agencies or state-operated programs (such as State Schools for the Deaf) for their special education program, funds to transport handicapped youth not otherwise covered under state transportation policies, and funds for statewide projects, technical assistance, child find, and hearing officers. Most states allocate discretionary funds for at least some of the above activities. However, sparsely populated states are more

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*The exception was the state already distributing 94 percent of its grant award to LEAs as flow-through monies.

†"Regional Centers" were known by a number of different names in the field, such as Learning Resource Centers and Educational Service Centers. We use the term to refer to what appear to be decentralized administrative units, responsible for undertaking such things as child find and parent information activities, technical assistance, and personnel development.

apt to undertake statewide projects than are the other states in the sample. Again, economies of scale are likely to contribute to this pattern: Districts in sparsely populated states are less likely to have the resources to develop certain programs, such as a curriculum for low-incidence handicapped students. Since the need for such programs continues to exist, however, the state contracts to undertake these projects.

The fourth most common use of discretionary funds is to comply with the P.L. 94-142 mandate for a comprehensive system of personnel development for both general and special education teachers and support personnel.* Five of the nine states allocate funds specifically for this purpose. Two of the larger states conduct personnel development activities through the regional centers, and allocate discretionary funds directly to the centers for this and other purposes. The remaining two smaller states undertake a comprehensive system of personnel development through the LEAs. Accordingly, in their annual program plan to the state, LEAs are required to specify their plan for personnel development. In turn, the states reserve a portion of their P.L. 94-142 administrative budget to coordinate and oversee the in-service activities undertaken at the local level.

The fifth major purpose for which the states are allocating P.L. 94-142 discretionary funds is for research-and-development projects. These projects can cover a wide range of subjects--such as developing model programs in vocational and preschool education; conducting studies on optimum teacher/pupil ratios, classroom organization, and use of personnel; and evaluating teacher certification requirements. The extent to which these projects are undertaken by states also varies widely--ranging from not at all, to a third of one state's available discretionary funds (see Table 2). Using funds in this manner frequently appeared to be a throwback to P.L. 94-142's precursor, Title VI. As mentioned earlier, Title VI was designed to stimulate state and local investment in special education through the funding of demonstration programs. In some of the states, projects funded under the old Title

*Section 613(a)(3)(A).

Table 2

STATE ALLOCATION OF DISCRETIONARY P.L. 94-142 FUNDS DURING FY 1980

How Allocated	Range of Funds Allocated (%)	Number of States Allocating (N = 9)
Grants/contracts to LEAs/IEAs:		
Vocational education programs	2.0-40.0	3
Preschool programs	1.0-32.0	4
Personnel development	12.0-18.0	2
Equalization	31.0	1
Severely handicapped	2.0-12.0	2
Cooperative	2.0-28.0	2
Child find efforts	14.0	1
Low-incidence handicaps	2.0-33.0	3
Total to LEAs/IEAs[a]	2.0-71.0	8
Grants/contracts to regional centers	8.0-67.0	4
State use:		
Special education tuition	16.0-20.0	3
Statewide projects (e.g., media centers, management information system, deaf curriculum)	5.0-19.0	5
Child find activities	2.0	1
Grants/contracts to other state agencies and state-operated programs	1.0-45.0	6
Transportation of the handicapped	8.0- 9.0	2
Miscellaneous (e.g., technical assistance, hearing officers)	2.0-12.0	2
Total state use	1.0-71.0	8
Personnel development system	9.0-36.0	5
Research and development projects	2.0-33.0	8
Range of discretionary dollars (in thousands)	$205-$12,600	

[a]This figure does not include all of the monies disbursed to an LEA/IEA. A portion of the research and development projects also goes to LEAs/IEAs but could not be broken out separately. Additionally, LEAs/IEAs receive the 75 percent entitlement funds discussed above.

VI continued to be funded with P.L. 94-142 discretionary funds. In fact, a number of the states expressed concern about the tendency of projects to become permanent and, accordingly, were designing termination stages into new and continuing projects.*

States that had not developed a significant program under Title VI tended to allocate research and demonstration monies for one of two purposes: to meet a state-identified priority, such as developing alternatives to institutionalized care for severely disabled youth, or to channel funds to specific districts. For example, one state deliberately funds special education-related projects in the three largest districts on the grounds that these districts are responsible for generating the bulk or the state's discretionary funds and, thus, deserve to have the use of some of these funds.

Summary. In summary, states use the discretionary portion of their funds in a variety of ways, reflecting the special needs of each state. These needs can be both political and programmatic, and differ from state to state. The extent of this variety is illustrated in Table 2, which shows the range of funds allocated by states for different purposes, and the number of states allocating funds for each purpose. As illustrated, a great deal of variance exists. We found, for example, that small states were more apt to target their discretionary funds on low-incidence handicaps than were larger states. Similary, sparsely populated states were more apt to target their funds to the development of cooperative programs than were densely populated states. States that operate with a regional structure used P.L.94-142 funds to strengthen that structure. States that sensed local agency reluctance to provide special education used P.L. 94-142 funds to encourage the development of special education programs.

We also noticed a difference in the way states allocated these discretionary funds. Some went out of their way to be equitable--

*This phenomenon is documented in the literature also. For example, in examining SDE use of Title V monies, Murphy found Title V funds used, among other things, to continue existing projects and expand existing modes of operation. Targeting funds to an entirely new set of priorities rarely occurred. (Jerome T. Murphy, *State Education Agencies and Discretionary Funds*, D. C. Heath & Co., Lexington, Mass., 1974.)

distributing funds on an equal dollars per child basis (providing districts applied for funds and offered specific programs) or attempting to fund all proposals by proportionately cutting all proposals if funds were not sufficient. Some states attempted to avoid potential conflicts by selectively encouraging certain agencies to apply for funds and, generally, keeping the existence of available funds quiet. Still others took a more aggressive stance--letting the presence of funds be known and then deciding on a district-by-district basis whether to fund proposals.

We also should note that the percentage of funds retained as discretionary varied greatly from state to state, ranging from a low of 1.4 to a high of 21.7 percent. Obviously, the amount retained as discretionary depends on the amount states choose to distribute to LEAs/IEAs as flow-through funds and to retain for administration. Interestingly, the larger states with special education service mandates prior to P.L. 94-142 retained the largest proportion of funds as discretionary. Since, as indicated above, a major portion of these funds were subsequently passed along to the local agencies, the differences among these states lie not in the amount of funds they wish to retain at the state level, but rather in the *amount of control* they wish to exercise over these funds. In other words, larger states with prior special education experience used their P.L. 94-142 discretionary funds in a more directive and prescriptive fashion with locals than did the other states in our sample.

The three least populated states used a greater proportion of their P.L. 94-142 funds for administration than did the larger states. These states also contributed less than 50 percent of the funds used for state administration of special education. However, we do not feel that these allocations should be construed as a lack of state commitment to special education. Two of these three states are paying nearly all of the excess cost of special education* for the locals, an action that could be interpreted as commitment to special education. Thus, it appears that

*Excess cost of special education means those costs that are beyond the average annual per elementary or secondary student costs for education.

factors other than commitment to special education may preclude a state from contributing more toward the cost of administering the special education program. These factors might include, for example, fiscal retrenchment or a set departmental distribution formula.

We also found that the less populated states had smaller special education student to staff ratios than the states with larger student enrollments. Although this could be due to overstaffing, we feel it is more likely due to economies of scale. In other words, a certain number of staff members might be necessary to fulfill program requirements, such as monitoring and technical assistance, regardless of the number of students actually served in special education.

STATE FINANCE FORMULAS

A subtask of this study was to examine the extent to which P.L. 94-142's distribution formula is compatible with state regular and special education finance formulas.

There are three basic types of special education finance formulas used by states: unit or resource-based; child-based; and cost-based formulas. Under the unit or resource-based formulas the state reimburses districts for all or a portion of the costs incurred for each designated unit. Designated units might include teachers or other specialists, administrators, classrooms, and/or transportation. Under the child-based formula the state reimburses districts for each handicapped child served, using either a straight sum (i.e., equal dollars per child) or a weighted approach (i.e., rate of reimbursement varies according to type of educational placement or disability). Finally, under the cost-based formula the state reimburses districts for a percentage of the full or excess costs incurred in providing special education to handicapped children. Of the nine states, two used a resource-based formula, three a cost-based formula, and four a child-based formula.

Each of these three special education funding formulas provides certain incentives and disincentives for making various programmatic

decisions concerning the education of handicapped children.* Each of these three special education funding formulas also requires different levels of information: Child-based formulas require information on the number of children served in special education and, thus, impose no additional reporting burdens on districts beyond that imposed by P.L. 94-142. Resource-based formulas require information on the units to be funded, most of which is generally provided by normal school records. Thus, resource-based formulas impose minimal reporting burdens on districts. However, cost-based formulas generally require detailed expenditure records on the part of the local districts and significant review procedures on the part of the funding agency.

When queried as to the financial compatibility of P.L. 94-142 and the state's regular and special education finance formulas, a few states indicated that the federal formula required them to label children in ways that their state formula did not. Others had to modify OSE's suggested excess cost calculation in order to conform to the data available in their states. The problems cited were primarily procedural, however. All but one did not feel the formulas were seriously incompatible. That is, while several states acknowledged the partial incompatibility of the P.L. 94-142 formula and the equalization thrust of their regular school finance formula, for example, it was not considered a significant issue. Two factors led to this assessment: First, the size of most states' P.L. 94-142 grant award is quite small relative to their states' special and regular education financial aid. Thus, P.L. 94-142's effects on a state's equalization efforts are limited. Second, in times of fiscal retrenchment, funds to help meet the costs of mandated services are welcomed, even if a different distribution formula is used.

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*For a discussion of the incentives and disincentives of special education funding formulas, see: William T. Hartman, *Policy Effects of Special Education Funding Formulas*, Institute for Research on Educational Finance and Governance, Stanford University, Report 80-B1, January 1980; and James S. Kakalik, *Issues in the Cost and Finance of Special Education*, The Rand Corporation, P-6217, September 1978.

As mentioned above, however, one state with an added cost special education finance formula did choose to make P.L. 94-142 fully compatible with its state formula. It did so by distributing P.L. 94-142's 75 percent flow-through monies as required by law, and then allocating a portion of state discretionary funds to districts with higher added costs.

Although only one state consciously designed the allocation of its P.L. 94-142 funds to enhance the federal program's compatibility with its own state financial program, allocation of funds in a number of other states was significantly affected by the type and funding of the regular and special education finance formulas operating in these states.

For example, during the 1979-80 school year, one state paid 92 percent of the state's allowable costs for special education. Prior to this the state paid 100 percent of the allowable costs. Included in its list of allowable costs were both direct costs (such as special education staff salaries, supplies, equipment, and transportation) and indirect costs (such as prorated district and school administrative salaries, library services, food services, and land and building rent). Given the state's reimbursement policy, districts found that they had sufficient funds to operate their special education programs and, consequently, did not request (or turned back) P.L. 94-142 funds. The state, in turn, found it had to return unused funds to OSE for the first several years of the program, and consequently, has identified more statewide projects to undertake.

Another state's weighted pupil formula has the state bearing the majority of the costs for its low-incidence, severely handicapped students placed in special, out-of-district schools. Consequently, districts had little incentive to serve low-incidence, severely handicapped students in their own schools under this formula. Recognizing this disincentive, the state is implementing a new special education finance formula during the 1980-81 school year. Under the new formula, the state will pay 50 percent of the allowable cost of special education, thereby hoping to encourage the development of local programs.

However, the state is also reserving a significant portion of its P.L. 94-142 discretionary funds to assist districts in developing local programs for the severely handicapped students currently being served out-of-district.

In yet a third example, both P.L. 94-142 and the state's finance formulas were affected by voter approval of a property tax rollback. When this happened, the state postponed implementation of a special education finance formula based on a percentage reimbursement of excess cost by program category, and instead implemented a straight-sum, child-based formula. They did this for the same reason P.L. 94-142's straight-sum, child-based formula was adopted, namely, administrative ease. It was a way for the state to quickly get money out to the districts after their revenue source was cut, without burdening the districts with excessive reporting requirements. However, under a straight-sum formula, districts operating low-cost programs are at an advantage while those operating high-cost programs are penalized. To assist districts operating high-cost programs, the state targeted nearly one-fifth of its P.L. 94-142 discretionary funds to two relatively high-cost areas: preschool programs and developmental centers for the severely handicapped. An additional third of its P.L. 94-142 discretionary funds was distributed to districts on an equal dollars per child basis for vocational special education and in-service training.

SUMMARY

This study shows that certain key state characteristics do affect state implementation of the P.L. 94-142 program.* We have seen, for

*The finding that state bureaucratic characteristics affect program implementation is certainly not unique to this study. See, for example, Charles L. Blaschke, *Case Study of the Implementation of P.L. 94-142. State A. Final Report*, Education Turnkey Systems, Inc., Washington, D.C., May 1979; M. W. McLaughlin and L. M. McDonnell, *Program Consolidation and the State Role in ESEA Title IV*, The Rand Corporation, R-2531-HEW, 1980; Jerome T. Murphy, *State Education Agencies and Discretionary Funds*, D. C. Heath & Co., Lexington, Mass., 1974; and Donald Van Meter and Carl Van Horn, "The Policy Implementation Process: A Conceptual Framework," *Administration and Society*, Vol. 6, No. 4, February 1975.

example, that how states allocate their P.L. 94-142 funds is affected by such things as their pre-P.L. 94-142 special education experience, standard operating procedures, population and other demographic characteristics, political climate, fiscal solvency, and financial goals, as reflected in their finance formulas. The effects are complex, and depend on each state's configuration of characteristics. In addition to the characteristics of states, we suspect the complexity of responses is due, also, to the presumptive nature of P.L. 94-142. For example, P.L. 94-142 prescribes who the states are to serve (all school-aged handicapped youth), how they are to serve them (for example, in the least restrictive environment), and what activities they are to take in support of these services (for example, child find and personnel development). Thus, the influence of state characteristics is probably being modified by program requirements, but we did not collect data on this.

Additionally, states are influenced in the allocation of their P.L. 94-142 funds by the program's distribution formula. In our sample of states, 78 percent of P.L. 94-142 funds flowed through to the LEAs and IEAs on a straight-sum basis. Counting discretionary funds, nearly 85 percent of P.L. 94-142 funds are flowing through to the local agencies.

It is also evident that states have been influenced by the establishment of the law's two priority areas. For example, most states are making specific efforts to locate and serve handicapped children in special education. As a result, the number of handicapped children being served nationwide in special education has risen by 12.4 percent--from 3,382,495 in October 1976 to 3,802,511 in October 1978.* However, it is evident, too, that these priority areas lose much of their usefulness as districts gain experience with special education. In particular, since the first priority was to have been met by the 1978-79 school year for children aged 3 to 18, for political and legal reasons, states uniformly indicate that they have met priority one. They acknowledge privately, however, that there is no way of knowing whether all handicapped children, in fact, have been identified and served. Some

*Child-count figures reported to OSE.

federal-level personnel similarly acknowledge the pro forma characteristics of the law's priority areas and have begun to question whether they should be changed.

III. STATE MANAGEMENT OF THE P.L. 94-142 PROGRAM

In the previous sections we examined the activities for which states allocated their P.L. 94-142 funds and traced allocational decisions to state characteristics. In this section we examine how states manage the P.L. 94-142 program.

IMPLEMENTING P.L. 94-142

Nearly all of the states had a mandatory special education law on the books prior to the implementation of P.L. 94-142 in 1977.* As we discussed earlier, a number of state laws were precipitated by the same factors that led to P.L. 94-142's passage. However, even in states with pre-P.L. 94-142 mandatory special education laws, most report changing their state law or regulations to bring them more into conformance with P.L. 94-142's regulations.† Thus, implementation of P.L. 94-142 at a minimum required changes in state procedures. In some states it also required implementing an entirely new program.

In this section we examine how states managed this process of implementation. For purposes of discussion, we have divided the task of management into two parts: internal and external management. By internal management we mean the tasks of recruiting staff, securing approval for the state's Annual Program Plan (APP) and grant award, and dispersing funds. By external management we mean the tasks of influencing LEAs and other agencies to undertake activities in keeping with the requirements of P.L. 94-142. These tasks include the review of LEA/IEA APPs and monitoring for compliance with the law. Throughout

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*See, for example, Alan Abeson, and Joseph Ballard, "State and Federal Policy for Exceptional Children," in F. Weintraub, A. Abeson, J. Ballard, and M. LaVor (eds.), *Public Policy and the Education of Exceptional Children*, The Council for Exceptional Children, 1976, pp. 83-95, and Nancy Bolick (ed.), *Digest of State and Federal Laws: Education of Handicapped Children*, The Council for Exceptional Children, Reston, Virginia, 1974.

†Report to Congressional Staff on State Education Agency Data Request, The National Association of State Directors of Special Education, Washington, D.C., January 1980.

this discussion we also examine the effect of federal practices on state management of P.L. 94-142 funds.

Internal State Management of P.L. 94-142 Funds

In all nine states, one administrative unit is responsible for administering both P.L. 94-142 and the state's own special education program.* Decisions pertaining to the P.L. 94-142 program and the allocation of its funds are made by special education personnel and, typically, not by state finance personnel.† For some states this additional responsibility posed few problems and provided a number of benefits. For others the implementation of P.L. 94-142 was more problematic.

Recruiting and Organizing Staff. The recruitment of staff, or reallocation of existing staff to new areas of responsibilities, was one of the first management tasks faced by the states in implementing P.L. 94-142. Three resolutions of this task are represented by the nine states.

The first resolution was to recruit an entirely new staff. Three of the states did not have a special education staff until the mid 1970s, when their state education law was passed or significantly strengthened. Thus, members of these three staffs were virtually all hired as a result of a new state law that was similar to P.L. 94-142.

The second resolution was to recruit significantly large numbers of new staff members to handle the demands and responsibilities brought on by the implementation of P.L. 94-142. Three of the states in our sample used this resolution, bringing in one-third to one-half of their current staff through the P.L. 94-142 program.

The third resolution was to not hire new staff members, but rather to reassign responsibilities among existing staff in order to meet the demands brought on by the implementation of P.L. 94-142. Three of the

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*In four of the nine states, one individual or a group of individuals is charged specifically with responsibility for administering P.L. 94-142. However, in these states as well as in the remaining five states, decisions pertaining to P.L. 94-142 are not made in isolation from the state special education program.

†However, in several states a state financial specialist has been permanently assigned to the special education program section.

states used this resolution.* Collectively, 5 percent of their staff members were recruited as a result of P.L. 94-142. These three states also had the largest special education pupil to staff ratios in the sample.

On the whole, the states indicated that approximately 20 percent of their state special education staff were added specifically to help meet the demands placed on them by the implementation of P.L. 94-142. This amounted to an average of slightly less than 10 staff members per sampled SDE.†

Some states also found that they needed to organize differently to fulfill new P.L. 94-142 responsibilities. For some states, this meant changing from an organization based on handicap types (for example, hearing and vision) to one based on functions. Two of the states that reorganized, for example, formed separate units for planning, field services and financial and other information services. Additionally, one of these states divided its field services unit into separate monitoring and technical assistance teams. Other states chose instead to assign additional responsibilities to all staff members--in particular, monitoring responsibility--rather than to reorganize. However, none of these states initially had been organized by handicap types.

Securing Approval for the State Plan. One of the major responsibilities that has been added to the state's workload as a result of P.L. 94-142 is the development of an approvable APP. In order to receive its P.L. 94-142 grant award, the state must submit to OSE an annual plan for how it will administer the P.L. 94-142 program. The

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*It should be pointed out, however, that this resolution was not voluntarily chosen by the SDEs; these three states were prevented from hiring additional staff by state hiring freezes. Furthermore, two of these states indicated that they were unable to meet their monitoring commitment due to lack of staff (see below), and the third indicated that it had to virtually eliminate its technical assistance activities in order to meet the monitoring commitment.

†Our sample average concurs with the average reported by the National Association of State Directors of Special Education. In their survey of 44 states, states reported an increase of 6-1/2 professional staff members and 3 support or clerical staff between 1975 and 1979, for a total of 9-1/2 staff members per state (*Liason Bulletin*, Vol. 6, No. 4, Washington, D.C., January 18, 1980, p 5.)

plan includes discussions of state policies and procedures by topic areas for meeting the requirements of the law (for example, decisions on meeting the law's two priorities, on implementing the least restrictive environment provision, and on undertaking a comprehensive system of personnel development), and a detailing of how the state intends to spend the funds. The APP must be submitted for comment to the public and be approved by the Commissioner of Education prior to being approvable by the OSE.

During the first year of the program, approval of the state plans experienced considerable delays. Two months after the program was to have been implemented in the schools (November 1977), only 40 percent of the plans had been approved by OSE. Six months after the program's implementation (February 1978), 90 percent of the plans were approved, with approval of the remaining 10 percent taking until the twelfth month of the program (August 1978).*

A number of factors reportedly contributed to this delay in approving plans. First, no cutoff date was set for states to submit their APPs to OSE. Consequently, plans straggled in for a long time. A major contributing factor to the lag in submitting state plans was the delay until late August of 1977 of the publishing of the program's rules and regulations. Second, since the provisions of the law were new, both the states and the federal government were learning about what was required. For example, a number of the states complained of numerous turnovers in federal state plan officers during the first year, with each new plan officer requiring different plan foci and revisions. Additionally, OSE was strict in its standards for approving plans and used this approval as an opportunity to require states to bring their existing procedures into conformity with federal requirements. For example, a number of state plans were held up because OSE felt the states were using hearing officers to implement P.L. 94-142 due process provisions who failed the federal impartiality requirement.

Progress Toward a Free Appropriate Public Education. A Report to Congress on the Implementation of Public Law 94-142: The Education for All Handicapped Children Act, prepared by the State Program Implementation Studies Branch of the Bureau of Education for the Handicapped, U.S. Office of Education (DHEW), January 1979, p. 97.

After three years of experience, there is noticeable improvement in the process of approving state plans. An April 15 date for submitting APPs has been established. In addition, many sections of the plan can be incorporated by reference from the prior year's plan. Furthermore, starting with FY 1981, states can submit one plan covering up to three years of operations under the new Education Division General Administrative Regulations (EDGAR).* These procedures, as well as hands-on experience with the process, has enabled both the federal and the state agencies to expedite the process. The majority of state FY 1980 APPs were approved by the end of December, rather than by the end of February. While this represents noticeable improvement, there is still obviously a considerable lag in the time required to approve state plans.

Disbursing Funds. The time it takes to approve state plans is critical since plan approval, in turn, affects the disbursement of funds to districts. Until a grant award is made (i.e., the state plan is approved), states are unable to award any monies to districts. However, states can and do process and approve district applications for funds while awaiting plan approval by OSE.

Assuming a district's application has been approved, once the state receives its grant award the process of disbursing funds to districts begins. While this process varies somewhat from state to state, the basic procedures are as follows: State special education personnel notify the finance personnel of the amount of the district's grant award.† State finance personnel, in turn, collect any necessary further documents from the district (such as an expenditure report), notify the district officially of its grant award and payment schedule, and initiate the accounting procedures required to activate payments to districts. Upon completion of its tasks, the finance department notifies the state

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*Department of Health, Education and Welfare, Office of Education, *Federal Register*, Vol. 45, No. 66, Thursday, April 3, 1980.

†The process is described for district entitlement funds only. A state typically makes its discretionary projects grant awards separately from and sequentially to district plan approvals and grant awards for entitlement funds.

treasurer, whose office disburses the funds. Again, while time and procedures vary somewhat from state to state, in our sample these procedures took on average 6 to 8 weeks. A quarterly payment schedule to districts was most commonly used, but again, schedules varied and included monthly (upon request), annually, and semiannually.

While the process of disbursing funds to districts appeared to be running smoothly in most states,* some districts are still not receiving their funds until late in the school year due to late state or district plan approval or slow fund disbursion procedures. For example, several of the states experienced funding delays during the first year of P.L. 94-142's implementation that were so severe that the states became (and remain) one year out of date in disbursing funds.† One of these states had difficulty reconciling its state procedures with the procedures required by OSE to meet the intent of the federal law. Thus, much of the first year was spent in negotiations. The second state's special education staff completely turned over during the first year, with the new staff rewriting the state's plan late the first year. Although these two states were certainly the most extreme in their carry-over of P.L. 94-142 funds, it was in fact the norm for states to carry over some portion of their funds. All states but one deliberately carried over at least some portion of their P.L. 94-142 administrative and discretionary project funds into the next fiscal year. Some reported that they did so because their state laws prohibited them from spending funds that were not already in house. Thus, in order to provide continuous service, some carry-over of funds was necessary. Others had adopted the practice of carry-over (and,

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*During the program's first year, a number of states experienced procedural difficulties disbursing funds that have since been corrected. These difficulties included making payments to districts that did not enable them to easily maintain a separate audit trail for P.L. 94-142 funds, and reconciling disparate data requirements for P.L. 94-142 and their state programs.

†Public Law 94-142 monies must be spent within 27 months of their receipt, or returned to the federal government. Thus, districts still have 15 months to spend funds that have been held up for one year.

in turn, felt that districts were adopting the same practice) in order to cushion the funding uncertainty that they felt was inherent in federally funded programs.

State Influencing and Monitoring of the LEAs

A number of the states in our sample indicated that, under P.L. 94-142, their agency's role had shifted from technical assistance to regulation. This shift occurred for several reasons: First, holding districts accountable for providing special education has become more imperative for states since they, in turn, are being held accountable by OSE. Second, under P.L. 94-142, SDEs have been given the authority to monitor--an authority which many did not have under state law. Thus, the states are able to put more muscle into the tasks of influencing LEAs and other agencies to undertake activities in keeping with the requirements of P.L. 94-142.

Approving Local Applications. The first opportunity for a state to influence a local agency's program is through approval of its application or plan. These plans typically consist of a minimum of three parts: district assurances that it is meeting the intent and requirements of P.L. 94-142 (for example, using P.L. 94-142 funds for excess cost only), a narrative or description of its special education program, and a program budget. All nine states in our sample require districts to specify how they intend to address the two federal priorities--meeting the needs of the unserved and the underserved severely handicapped. Additionally, three of the nine states require that districts specify how they will address state-identified priorities, such as preschool and vocational special education. Requiring that districts consider ways to meet state-identified priorities is one means by which states exert control over, or regulate, local practices.

The thoroughness with which these local applications are reviewed differs from state to state and depends, in part, on the numbers of applications and staff availability. Some states reported undertaking a fairly cursory review--checking primarily for required signatures, and a budget which totals correctly. Others reviewed the plans more substantively--for example, checking to see if the educational program

and resource mix proposed look adequate for the types and severity of handicapped youth being served.

States reported spending on average from 3 person-hours to 3 person-days reviewing each district application. The time spent to process and approve an application depended, in part, on the number of applications received. In the nine states in our sample, the number of applications received for P.L. 94-142 basic entitlement funds ranged from 32 to over 500. This variance reflects the differences in the states' population, number of school districts, and population densities.* Furthermore, some states required districts to submit additional applications in order to qualify for targeted discretionary funds. State practices were not uniform, however: Some had districts apply for both entitlement and discretionary funds in one application, whereas others had districts submit a separate application for entitlement funds and up to four separate applications for discretionary funds. Requiring separate applications has the effect of requiring districts to design programs for specific target areas--an effect that other states try to achieve through the design of the basic district entitlement application. Highlighting specific target areas in the district's entitlement application alleviates the negative consequences of requiring separate applications--namely, the time needed to review and approve additional applications and, consequently, the delay in disbursing funds.

Disbursing funds to districts also depends on when a district's plan is actually approved. All nine states indicate that any district that applies and is entitled to P.L. 94-142 funds eventually receives approval for its plan. This may take some time, however (as it does in the case of the federal review of state plans), if the state and district disagree substantively on certain issues. Funding delays were exacerbated further in districts in four of the nine states, because no

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*The law prohibits states from dispensing P.L. 94-142 funds to LEAs entitled to less than $7500 in any fiscal year (Section 611(c)(4)(A)(i)), unless the LEA submits a consolidated application for payments along with other LEAs or IEAs (Rules and Regulations, Section 121a.190(b)). Thus, a highly populated state with a large geographical region might have fewer applications to process than a smaller, but densely populated state.

cutoff date for districts to submit plans had been set. The common thinking on this matter is that the districts will apply when they need the funds.* In fact, district need for funds is what states rely on for achieving district compliance with the law--a compliance that is determined both by the review and approval of a district's plan and by the state's monitoring of district programs, as described below.†

Monitoring Local Agencies. On-site monitoring of local agencies receiving funds was a major new area of responsibility for most states under P.L. 94-142. Four of the nine states had no monitoring authority at all prior to P.L. 94-142. The remaining five states had monitoring authority but were typically not exercising this authority or were monitoring for other purposes prior to P.L. 94-142 (for example, accreditation).

Each of the states was attempting to follow a similar set of monitoring procedures, the guidelines for which had been established by OSE in keeping with the EDGAR provisions. Typically, monitoring was done on-site by a team of from two to five individuals,‡ and over a period of from one to five days, depending on district size. Districts

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*It should be pointed out that in two of our states a not insignificant number of districts that could otherwise qualify refused to apply for P.L. 94-142 funds. In one case the state pays for nearly all the excess cost of special education and, thus, the districts probably do not need P.L. 94-142 funds. However, in the second case the state pays for only a small portion of the cost of special education. Rather, in this case, the state felt that districts refused to apply because they did not want to be held accountable for special education.

†Due process hearings were not explicitly covered in this study, but represent another means available to the state of monitoring district compliance with the law. Only one state in our sample reported spending a significant amount of time on due process procedures, however. Furthermore, monitoring through due process relies on the initiation of personnel other than SDE personnel.

‡Most states had local as well as state officials on their monitoring teams in order to (1) promote the dissemination of successful practices statewide and (2) avoid placing the state solely in the position of having to tell local educators how to run their programs.

were scheduled to be monitored once every three years.* This monitoring typically focused on whether districts appeared to be following the procedures specified in P.L. 94-142. For example, monitoring teams looked for evidence of multiple assessment procedures, individualized education programs, parent participation, and confidentiality of records. About one-half of the states also appeared to be undertaking some financial monitoring of districts (for example, checking purchase orders for equipment, and payroll records for the hiring of personnel).

A number of respondents cited this monitoring authority as one of P.L. 94-142's greatest benefits to states. Some saw it as an opportunity to provide more focused technical assistance. These states used monitoring to identify weaknesses in a district's program which then became the focus of the state's attempt to technically assist the district. Others saw it as a more adversarial procedure--using their monitoring authority to force districts to comply with the procedures of P.L. 94-142. Still others were reluctant to exert much influence over the districts.

All nine states followed the same basic procedure if a district was found to be out of compliance with P.L. 94-142: A monitoring report was issued which cited the area(s) of noncompliance and indicated a date by when the district should have each area of noncompliance corrected. About one-half of the states require districts to submit assurances

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*Not all states were able to adhere to this schedule, however. Four of the nine states were on a 3- to 5-year schedule, with the states larger in geography, number of school districts, or population hard-pressed to monitor districts more frequently than once every 5 years. Two other states did not have their monitoring component in full operation until this year, and thus it was too early to tell whether they would be able to adhere to the once-every-3-year schedule suggested by OSE. Thus, only three states currently seemed to be meeting this schedule. The states cited lack of staff as their primary difficulty in adhering to this schedule. As we understand it, OSE's position is that the states ought to use their P.L. 94-142 funds to hire the staff or consultants necessary to adhere to the required schedule. As mentioned above, however, most states have limits on the number of staff they can hire. These limits often preclude the hiring of consultants as well. Thus, these states see only two feasible alternatives open to them: first, adhere to the monitoring schedule to the exclusion of other activities such as technical assistance; or two, cut back on the scope of monitoring.

that these procedures have been met; the other half additionally site visit all or a sample of the monitored districts to confirm their compliance.

Should a district refuse to come into compliance, the states indicated that they will withhold a district's funds and, in a number of cases, the district's state special education funds as well. One state additionally linked P.L. 94-142 compliance with district accreditation. To date, none of the states in our sample had withheld P.L. 94-142 or state special education funds due to noncompliance. A number of the states indicated that they had held up monies and had threatened districts with fund cutoffs, but that, in turn, districts eventually complied.* In general, however, the states remained skeptical of their ability to actually *force* a district to comply with P.L. 94-142. While a state can cut off a district's P.L. 94-142 funds, in many cases this amount is too small to serve as a positive incentive to the district.† In cases where the amount of P.L. 94-142 funds is sufficient to act as an incentive for the district to comply, it is frequently not a motivational problem but rather a lack of district resources with which to comply. In other words, in cases where withholding funds could serve as an incentive, it is lack of funds and other resources that is causing the problem to begin with. Thus, the mechanism that states use should a district fail to come into compliance with the requirement of P.L. 94-142 would, in many cases, exacerbate the problem rather than help alleviate it.‡

As mentioned above, state monitoring to date has typically focused on whether districts appeared to be following the procedures as specified

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*One state additionally threatened to turn a district over to the State Attorney General's office for prosecution.

†Of course, districts that refuse to comply with P.L. 94-142 are in danger of ultimately having *all* of their federal funds cut off under Section 504 of the 1973 Rehabilitation Act, which prohibits discrimination in federally funded programs.

‡The federal government is also faced with this perverse incentive system (i.e., to attempt to influence states to undertake certain actions that may entail additional costs, by withholding funds), and has shown a similar reluctance to exercise the option. To date, state P.L. 94-142 grant awards have been held up, and states have been threatened with eventual nonfunding, but agreements have been reached and the grant monies distributed.

the districts in writing. On the other hand, nonpolicy questions are those that can be answered directly by the staff member (typically, a federal state plan officer) receiving the questions, and the answers typically transmitted by telephone or in person.

The advantage to such an approach is that it can provide an opportunity for quick responses to the myriad of questions that occur with the implementation of any complex, new program. Furthermore, it can allow the decisionmaker flexibility to consider a state's unique resources and limitations in responding to the questions. We had some indication that both of these advantages were present, although it was also apparent that states sometimes waited a long time for responses to their questions. The obvious disadvantage is that inconsistent decisions can occur. As a result, states may be held to different standards. In some cases this difference in standards is intentional. For example, OSE is relaxing standards somewhat for states it considers to be doing a good job, and not relaxing them for states considered to be dragging their feet. In other cases this difference in standards is probably unintentional and occurs without the knowledge of most of the staff.*

Another possible risk involved in pursuing a flexible approach is that some states may start to exploit the federal-state relationship. States may fail to "ask permission" if they are in doubt as to a favorable response and assume instead that OSE will object if state actions conflict with P.L. 94-142 requirements. The result is a reduced flow of information from the states. As this occurs, the federal agency might come under increasing pressure to exert more control and to exercise more leadership, as appears to be happening with OSE (see, for example, the Report by the Education Advocates Coalition on Federal Compliance Activities to Implement the Education for all Handicapped

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*It is certainly possible, although less probable, for inconsistencies to occur in written policies as well. For example, one state was told in writing that districts could use P.L. 94-142 funds to cover inflationary increases in salaries, whereas another state was notified in writing that they could not. A cursory review of DAS memos to states, however, uncovered relatively few such inconsistencies. It should be noted also that states and LEAs did have to contend with inconsistencies *between* agencies, and in particular, between OSE and the Office of Civil Rights (OCR) and their Section 504 enforcement procedures.

Children Act (P.L. 94-142), April 16, 1980). Consequently, in the future OSE may be forced to take a stronger role in setting policies for the states and in holding states to these policies ("More Guidance to States on Handicapped Education Expected," *Education Daily*, June 5, 1980, p. 5).

SUMMARY

In summary, managing the implementation of P.L. 94-142 appeared to be more difficult for some states than for others, depending on established state procedures and staff. For some, managing the P.L. 94-142 program required developing and managing an entirely new special education program. For others, it meant reconciling some discrepancies between the state's program and P.L. 94-142, or implementing additional requirements dictated by P.L. 94-142. Many of the implementation problems discussed in this section have since been corrected or lessened, while others persist and still others are bound to develop as states move into what one state described as the next stage of implementation--namely, assuring that handicapped youth are provided with an appropriate education.

The OSE's strategy for managing the implementation of P.L. 94-142 is evolving over time as well. Initially, OSE's posture was to be flexible and to give states latitude for making decisions. While such an approach has inherent appeal because it places the decisionmaking closer to the level at which implementation must occur (i.e., LEAs/IEAs), it also leads to inconsistent behavior on the part of both the federal and the state agencies.

IV. SUMMARY AND IMPLICATIONS

STUDY FINDINGS

As indicated by the discussion above, there is no consistent pattern across states of allocating discretionary P.L. 94-142 funds. Rather, state allocation of discretionary funds and the management of P.L. 94-142 funds appear complex and depend to a large extent on each state's particular characteristics, such as pre-P.L. 94-142 special education experiences, standard operating procedures, population and other demographic characteristics, political climate, and fiscal solvency. More specifically, for the research questions addressed by this study and listed below, we found the following:

How Are States Allocating Their P.L. 94-142 Funds? The nine states in our sample allocated their funds consistent with the P.L. 94-142 formula--at least 75 percent flowed through to the LEAs on an equal dollars per child basis; no more than 5 percent or $200,000, whichever was greater, was earmarked for state administration of the program, and the remainder was used at state discretion to provide direct or support services to handicapped children. These direct or support services varied greatly, and consisted of targeted and untargeted funds distributed to districts, and funds used for educational programs at state-operated institutions; child find activities, special school tuitions, special transportation to and from school; and research and development projects. Furthermore, the method for allocating these funds varied from state to state. Some states held open competitions for all or a part of these funds, others selectively invited districts or agencies to apply, whereas still others allocated funds by set formula. There was a great deal of variance in how states allocated the discretionary portion of their funds, and we conclude generally that they are spending these funds to meet unique state needs.

Is This Allocation Compatible With State Finance Formulas? We found P.L. 94-142's straight sum, or equal dollars per child distribution formula to be generally compatible with most of the sampled states' regular and special education finance formulas. While there are some areas of partial incompatibility in most states, the respondents generally

did not consider this a significant issue. Furthermore, in the one state where the partial incompatibility between formulas did matter, it was possible to use P.L. 94-142 discretionary funds to arrive at a solution for making the federal and state formula compatible.

In a number of states we also found the allocation of P.L. 94-142 funds affected significantly by type of formula and funding level of special education: Local agencies had little incentive to apply for P.L. 94-142 funds in the state that pays for nearly 100 percent of the cost of special education. And in other states, discretionary funds are used to fill in financial or service gaps created by state and local funding formulas.

How Are States Managing Their P.L. 94-142 Funds? We also found that state management of P.L. 94-142 funds varied greatly, depending on established procedures and staff. Some already had their state special education staff in place and were administering a state program that was similar to the P.L. 94-142 program. Others had a state special education staff and program in place, but experienced difficulties reconciling the discrepancies between the state's program and P.L. 94-142. Still others were faced with developing and managing an entirely new program.

As a result, some states appeared more successful than others at implementing P.L. 94-142. To a large extent, state success depended on how willing states were to push districts to comply with the requirements of P.L. 94-142. For some the extent of this push was limited by the availability of staff. For others it was limited by a weak state agency in comparison with the local agencies. Yet others appeared to have developed procedures that allowed them to monitor for compliance while assisting districts to implement P.L. 94-142.

POLICY IMPLICATIONS

As we stated at the outset, a single question lies at the core of this study: Should additional or revised procedures concerning the use of program funds be instituted to help states better meet the intent of P.L. 94-142? In other words, what implications do these findings have for modifying the existing legislation, program regulations, or practices

generally followed in implementing P.L. 94-142? In discussing these implications, and the conclusions derived from them, we again separate the discussion into our two main categories--the allocation and the management of P.L. 94-142 funds.

The Allocation of Funds

- *The current P.L. 94-142 within-state distribution formula's 75-25 split between discretionary and indiscretionary funds appears to be adequate.*

The distributio of funds dictated by the current P.L. 94-142 within-state formula seems to be working well for most states. No state considered the amount allocated for administration too small except those states whose grant award was too small to qualify for more than the allotted minimum amount (i.e., states for which $200,000 was greater than 5 percent of the grant award). As mentioned above, the minimum has been raised to $300,000, for FY 1980 funds and the adequacy of these funds should continue to be periodically reassessed.

Additionally, only one state expressed a desire for having a greater portion of the state funds discretionary. The remaining states in the sample felt that the 75-25 split was adequate and provided them with the flexibility needed to target to areas of need. All nine states reaffirmed the need for discretionary funds, however.

- *It appears that P.L. 94-142 priorities could be amended to more accurately reflect the program's stage of implementation.*

As indicated above, the two priorities established for the expenditures of P.L. 94-142 funds (i.e., the unserved and the underserved severely handicapped) have lost much of their usefulness and are being treated in cursory fashion. Since it is generally agreed that states are doing a reasonably good job of identifying unserved handicapped children, the first priority should continue to be implemented by requiring active state identification programs. Congress might consider modifying the second priority, however, to indicate that service should go to any handicapped child who is being inadequately served. Moreover,

we additionally suggest that OSE work even more closely with the states to establish state-specific priorities.

Most of the states in our sample were already setting state-specific special education priorities, such as forming cooperative programs and developing programs for secondary students. How states intended to address these priorities was not spelled out, however, even though they did spell out their intentions for meeting the two federal priorities in their APPs. It should be possible, therefore, for OSE to capitalize on the fact that states are already establishing priorities and to require them to address these priorities similarly to the way they have addressed the two federal priorities in the past.

- *The current P.L. 94-142 between-state distribution formula did not appear to be in need of change.*

Currently, OSE distributes P.L. 94-142 dollars to states on a straight sum or equal dollars per child basis. A major advantage to using this formula is administrative ease. While some feel that this formula acts as an incentive to classify students into low-cost programs (i.e., to serve the mildly handicapped), procedures such as due process and multiple assessments have been built into P.L. 94-142 to serve as checks on this tendency. Furthermore, the straight sum formula imposes less reporting burden on states and districts than other formulas, such as a cost-based formula. Finally, most states do not consider the partial incompatibility between the federal formula and their state special and regular education formulas to be a problem. Thus, since all parties are familiar with the formula and no major problems are evident, we suggest it be retained.

The Management of Funds

- *The flexibility offered by P.L. 94-142 to help states meet their specific needs should be retained.*

As this study has shown, state characteristics have important effects on how states allocate and manage their P.L. 94-142 funds. Thus, it would seem that these characteristics should be taken into account

when implementing P.L. 94-142. At the same time, as indicated above, OSE is under increasing pressure to take a stronger role in setting policies for the states to follow. Although we concur that OSE needs to continue to exert leadership, and to become more active in interpreting the intent of the law, we also feel that there could be a danger in becoming too prescriptive. In other words, although OSE should take the initiative in wrestling with sticky definitional problems, such as what constitutes an appropriate education, it should avoid the temptation to require states to undertake uniform practices. To require only uniform practices among states could reduce P.L. 94-142's potential effectiveness.

- *Federal and state compliance efforts could be focused more on substantive than on procedural issues.*

We found it perplexing initially that all states could produce elaborate APPs and documentation of forms and procedures used, but that few kept formal, up-to-date records of how they spent their discretionary funds. As the study progressed, however, the reason for the phenomenon became clear: OSE was holding states accountable for the procedures they were following but not for the actual allocation of funds. As a result, states had invested a considerable amount of time documenting procedures.

There is indication that this procedural focus is changing, however. Beginning with the 1980-81 school year, states are allowed to submit program plans covering up to three years of operation. Furthermore, personnel in OSE indicated that, starting in 1980-81, they intend to track the allocation of discretionary funds. Thus, it appears that in the future the emphasis will be more on actual practices in the field than on formal procedures. We feel that this is an appropriate emphasis, and encourage OSE to continue in this direction.

Since it is evident that some states are currently monitoring only what the federal government is forcing them to, however, OSE may need to take a stronger role in assisting states to substantively monitor the LEAs. Currently, OSE's stated policy is to monitor states once every two years. However, they have been unable to always meet this schedule due to staff shortages. Simplified and multiyeared state APPs

should help reduce the staff time needed to review plans. On the other hand, taking a stronger role in setting policies will require more staff time. Thus, OSE may have difficulty adhering to this biyearly schedule in the future as well. Yet more knowledge of state contexts is needed if states are to develop procedures in conjunction with OSE that best meet their special education needs. Therefore, we feel that it is important for OSE to spend as much time as possible on site.

SUMMARY

In summary, we conclude that the P.L. 94-142 fund-allocation procedures, for the most part, appear to be functioning adequately. This includes both the within- and the between-state distribution formulas. However, the program's priorities (i.e., the unserved and the underserved severely handicapped) could be amended to reflect the program's current stage of implementation. In particular, the second priority could be expanded to include all inadequately served students. Additionally, OSE should consider formally helping states establish state-specific priorities. Finally, we conclude on the basis of the study's findings that state characteristics are important determinants of how states allocate and manage their P.L. 94-142 funds. Therefore, OSE should consider individual state characteristics in managing the program. This may require placing less reliance on set procedures and uniform reporting standards, and instead placing more reliance on developing state-specific standards for meeting the intent of the law. Developing state-specific standards will require an even more vigorous monitoring program by OSE, however. We suggest that this monitoring, as well as the state monitoring of LEAs, focus on substantive rather than procedural matters.

Appendix

NUMBER OF SAMPLED STATES BY SAMPLING VARIABLE AND STRATA*

Sampling Variable	Strata	# States
1. Geographic Region	Northeast	2
	Midwest	3
	South	2
	West	2
2. No. of Special Education Students	Large	4
	Residual	5
3. Average State $/Handicapped Child	High	3
	Medium	4
	Low	2
4. Special Education Finance Formula	Child-based	4
	Resource-based	2
	Cost-based	3
5. General School Finance Approach	Foundation	3
	Equalization	3
	Hybrid	3

*Based on 1977-78 data.